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JPMorgan Chase Bank, N.A.*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MICHELLE CARTER,

Plaintiff,

- against -

JP MORGAN CHASE BANK, N.A.,

Defendant.

Case No.: 17-539-ARR-SLT

**ANSWER TO COUNTERCLAIM**

JPMORGAN CHASE BANK, N.A.,

Third-Party Plaintiff,

- against -

DAHAEEL 1, INC. d/b/a ROCKAWAY FARM  
DELI & GRILL, SALEM N. AL-GEMSH, SALAH  
M. OMAIRAT, AMMAR Y. AWAWDEH, 579  
ISLAND MARKET, INC. d/b/a BREAD AND  
BUTTER MARKET, YASER AWAWDEH,  
MUHAMMED PRATTS, LAMONT ROBINSON,  
MOHAMMED KHATARI, PICKLES & OLIVES,  
INC., MAZEN DELI GROCERY CORP.,  
KAMAL DARWISH, MUKHTER OMAIRAT,  
RANDY PRATTS, AHMED OMAIRAT,  
and “JOHN DOE NO. 1” to “JOHN DOE NO. 10,”  
inclusive, the last ten names being fictitious and  
unknown to the third-party plaintiff,

Third-Party Defendants.

Defendant/Third-Party Plaintiff JPMorgan Chase Bank, N.A. (“Chase”), by its attorneys Zeichner Ellman & Krause LLP, for its Answer to the counterclaim of Third-Party Defendants Salah M. Omairat and Mazen Deli Grocery Corp. (the “Third-Party Counterclaim Defendants”), alleges upon information and belief as follows:

1. It has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 35, 36, 37, 38, 40 and 44 and refers all conclusions of law to the Court, except admits that the subject Check was deposited at a branch of Chase in Brooklyn.

2. It denies the allegations contained in paragraphs 39, 41, 42 and 45, except admits that Anas Ali and Armstrong Millamena were each employed by Chase in October 2015.

3. With respect to paragraph 43, it avers that such allegations do not require a response, but to the extent a response is required, it denies the allegations and refers all conclusions of law to the Court.

#### **FIRST AFFIRMATIVE DEFENSE**

4. Third-Party Counterclaim Defendants’ counterclaim fails to state a claim against Chase upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

5. Third-Party Counterclaim Defendants' counterclaim is barred by the doctrines of unclean hands and *in pari delicto*.

**THIRD AFFIRMATIVE DEFENSE**

6. Third-Party Counterclaim Defendants' counterclaim is barred by the principles of ratification, consent, acquiescence and voluntary payment.

**FOURTH AFFIRMATIVE DEFENSE**

7. Third-Party Counterclaim Defendants' counterclaim is barred because Chase has committed no act or omission causing damage to Third-Party Counterclaim Defendants.

**FIFTH AFFIRMATIVE DEFENSE**

8. Any damages allegedly suffered by plaintiff and/or Third-Party Counterclaim Defendants were caused, in whole or in part, by superseding and/or intervening acts of others than Chase.

**SIXTH AFFIRMATIVE DEFENSE**

9. Third-Party Counterclaim Defendants' damages, if any, were not caused by Chase, but rather by acts and/or omissions of Plaintiff Michelle Carter, Third-Party Counterclaim Defendants and other Third-Party Defendants.

**SEVENTH AFFIRMATIVE DEFENSE**

10. Third-Party Defendant Salah Omairat admits, in paragraph “4” of his Answer to the third-party complaint that he both disbursed and received proceeds of the Check at issue. Had he not done so, there would be no lawsuit and no alleged damages to plaintiff, to Chase or to Third-Party Counterclaim Defendants.

**EIGHTH AFFIRMATIVE DEFENSE**

11. Third-Party Counterclaim Defendants fail to state a claim entitling them to recover attorneys’ fees.

WHEREFORE, Chase demands judgment on its Third-Party Complaint and dismissing the counterclaim, together with the costs and disbursements of this action, including without limitation an award of reasonable attorneys’ fees and expenses and for any further relief the court deems just and proper.

Dated: New York, New York  
March 20, 2018

ZEICHNER ELLMAN & KRAUSE LLP

By: /s/Ronald M. Neumann  
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